

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
05-CA-271044	1-5-2021

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Medstar Washington Hospital Center		b. Tel. No. (202)877-5091
d. Address (street, city, state ZIP code) 110 Irving Street, NW Washington, DC 20010		c. Cell No. (b) (6), (b) (7)(C)
e. Employer Representative (b) (6), (b) (7)(C)		f. Fax No. (202)877-8397
i. Type of Establishment (factory, nursing home, hotel) Hospital		g. e-Mail (b) (6), (b) (7)(C)@medstar.net
j. Principal Product or Service Medical services		h. Dispute Location (City and State) Washington, DC
		k. Number of workers at dispute location 500 +

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (4) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since about November 18, 2020 and continuing to the present date, the Employer has been discriminating against employee Lageneia LaRochelle by harassing and intimidating her and denying her a schedule request because the employee provided evidence and/or gave testimony to the Board.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

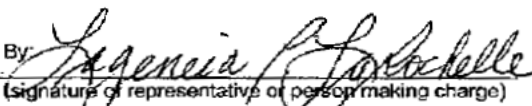
Lageneia LaRochelle, an individual

4a. Address (street and number, city, state, and ZIP code) 1147 Summit Street, NE Washington, DC 20002		4b. Tel. No. (202)396-0808
		4c. Cell No.
		4d. Fax No.
		4e. e-Mail gena.larochelle@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  (signature of representative of person making charge)	Lageneia LaRochelle, an Individual	Tel. No. (202)396-0808
	Print Name and Title	Office, if any, Cell No.
	Date: Jan 4, 2021	Fax No.
Address: 1147 Summit Street, NE Washington, DC 20002		e-Mail gena.larochelle@gmail.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1-2848009081

POWERS, LEWIS & KING, PLLC

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BUILDING ONE
WASHINGTON, D.C. 20008
TELEPHONE: (202) 363-9740
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plklaw@rcn.com

WILLIAM C. KING



February 18, 2021

David L. Díaz, Field Examiner
National Labor Relations Board, Region 5
Bank of America Center, Tower II
100 South Charles Street, Suite 600
Baltimore, Maryland 21201

RE: Service Employees International Union (SEIU),
Local 722 (Medstar Washington Hospital Center)
Case 05-CB-271048

Dear Mr. Díaz:

The following is the position statement of SEIU Local 722 (hereinafter referred to as “the Union”) with respect to the unfair labor practice charge filed by Lageneia LaRochelle (hereinafter referred to as “the Charging Party”), a member of the bargaining unit represented by the Union. The Charging Party is an employee at the Medstar Washington Hospital Center (hereinafter referred to as “the Hospital”) and alleges that the Union has engaged in unfair labor practices within the meaning of §8(b)(1)(A) of the National Labor Relations Act. Specifically, the Charging Party alleges the following:

“Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to properly handle the grievance of Lageneia LaRochelle for arbitrary or discriminatory reasons or in bad faith.”

The Union denies that it has engaged in unfair labor practices, the Union has not improperly handled the grievance of the Charging Party, the Union has not acted in an arbitrary or discriminatory manner nor has the Union acted in bad faith. It is the position of the Union that it has, at all times, acted in a proper and lawful manner.

The Charging Party contacted the Union wanting to file a grievance against the Hospital for allegations retaliation, harassment, bullying, and intimidation for engaging in protected activity. The Charging Party had not received any corrective actions. Hearing

the concerns of the Charging Party, the Union tried to schedule a meeting with the Union, the Hospital labor relations and the Charging Party. In doing so, a Union official, trying to associate the Charging Party's concerns with provisions of the current collective bargaining agreement, completed a grievance form and submitted it to the hospital. The Charging Party was unhappy with this and a bad relationship between the Charging Party and the Union official who completed the form. Subsequently, that Union official asked another Union official to handle the grievance.

The second Union Official had an in-person meeting, phone conversations and email exchanges with the Charging Party trying to 1) get all of the Charging Party's concerns clearly stated, 2) determine how the contract supports (or not) the Charging Party's concerns and 3) share the findings with the Charging Party. In doing so, the Union official tried multiple times to get a grievance form completed and acceptable to the Charging Party for submission to the hospital but was not successful. The Charging Party continuously found something wrong with the form and shared that she had no confidence in the Union to handle her case. The Union official even suggested that the Charging Party write a letter of intent to grieve that the Union could submit to the Hospital. Nothing that the Union did or suggested was satisfactory to the Charging Party.

The first Union official had already submitted a grievance form and the Hospital was prepared to meet and hear the Charging Party's concerns. The Union attempted to get the Charging Party to accept the meeting dates the Hospital offered. The Charging Party would not accept any of the proposed dates. However, the Charging Party gave the Union a date which the Union sent to the hospital but the Charging Party did not give the Union a time for said meeting. While waiting over a week to get a time from the Charging Party, that date became unavailable for the Hospital. The Charging Party did not provide the Union with another proposed date and time for a meeting with the Hospital. Subsequently, the Union received the January 7, 2021 letter from the NLRB.

In previous conversations with the Charging Party, the Union official explained the grievance committee, how the committee works, who's on the committee, etc. and told the Charging Party that she could bring her issues to the committee since it is composed of people other than the Union officials with whom she had been communicating. After receiving the NLRB letter, the Union official sent an email reminding the Charging Party of the time the next grievance meeting would take place if she chose to participate.

Sincerely,

William C. King

William C. King

Legal Counsel for SEIU Local 722



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlrb.gov
Telephone: (410)962-2822
Fax: (410)962-2198

November 1, 2021

Ms. Lagenia LaRochelle
1147 Summit Street, N.E.
Washington, DC 20002

Re: Medstar Washington Hospital Center
Case 05-CA-271044

Dear Ms. LaRochelle:

We have carefully investigated and considered your charge that Medstar Washington Hospital Center ("the Employer") has violated the National Labor Relations Act.

Decision to Dismiss: Based on our investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge for the following reasons:

Your charge alleges that the Employer violated Section 8(a)(1) and (4) of the Act by: harassing and intimidating you, and denying your schedule request because you provided evidence and/or gave testimony to the Board.

Regarding your allegation that the Employer denied your schedule request in retaliation for your activity before the Board, in determining whether such actions violate the Act, there must be an initial showing that an employee suffered an adverse employment action and that a substantial or motivating factor in an employer's decision was the employee's Board activity. *NLRB v. Scrivener*, 405 U.S. 117, 124 (1972). The elements commonly required to support such a showing are Board activity by the employee, employer knowledge of that activity, and animus on the part of the employer. *Gary Enterprises*, 300 NLRB 1111 (1990); *Rhino Northwest, LLC*, 369 NLRB No. 25 (2020). If this showing is satisfied, the burden then shifts to the employer to show that it would have taken the same action in the absence of the protected activity. *Wright Line*, 251 NLRB 1083, 1089 (1980); *NLRB v. Transportation Management*, 462 U.S. 393 at 401 (1983).

The investigation disclosed that you were engaged in Board activity by way of providing the Employer with a copy of an unfair labor practice charge you intended to file against it, filing that charge against the Employer and providing testimony in support of that charge. *NLRB v. Scrivener*, *supra*. The investigation further disclosed that the Employer had knowledge of your Board activity. However, there was insufficient evidence to establish that you suffered an adverse employment action or that the Employer harbored animus against you on the basis of your aforementioned activities before the Board. Thus, a violation of Section 8(a)(4) of the Act cannot be found. Further, even if it could be shown that you suffered an adverse employment action and that the Employer harbored animus against you on the basis of your Board activity, the Employer has met its burden of demonstrating that it would have taken the same actions with

regard to your schedule request in the absence of such activity. *Wright Line*, 251 NLRB at 1089; *NLRB v. Transportation Management*, supra at 401.

Lastly, to the extent you allege the Employer harassed and intimidated you in response to your activities before the Board, the investigation revealed insufficient evidence to show that the Employer took any such actions. Based on the foregoing, further proceedings are not warranted, and I am refusing to issue complaint herein.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See [User Guide](#).) A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street, S.E., Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **November 15, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 15, 2021**. The request may be filed electronically through the *E-File Documents* link on our website www.nlrb.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 15, 2021, **even if it is**

postmarked or given to the delivery service before the due date. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

/s/ Sean R. Marshall

Sean R. Marshall
Regional Director

Enclosures

1. Appeal Form
2. E-Filing to Appeals

cc: **(b) (6), (b) (7)(C)**
Medstar Washington Hospital Center
110 Irving Street, N.W.
Washington, DC 20010

Jason M. Branciforte, Esq.
Littler Mendelson, P.C.
815 Connecticut Avenue, N.W. Suite 400
Washington, DC 20006-4046

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

December 13, 2021

LAGENEIA LAROCHELLE
1147 SUMMIT ST NE
WASHINGTON, DC 20002

Re: Medstar Washington Hospital Center
Case 05-CA-271044

Dear Ms. LaRochelle:

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons in the Regional Director's letter of November 1, 2021.

The Regional Office investigation disclosed insufficient evidence to establish that the Employer retaliated against you because you engaged in protected activity in violation of Section 8(a)(1) and (4) of the National Labor Relations Act. In this regard, the investigation disclosed that on November 18, 2020 you sent a draft unfair labor practice charge to the Employer. Thereafter, the Employer drew up its work schedule for the next several weeks. You maintain that the Employer did not assign you the schedule that you requested, and it declined to modify its finalized schedule to accommodate your desired workdays. You assert that these actions occurred in retaliation for your engaging in protected activities. However, there was insufficient evidence to establish that the Employer harbored any animus toward your Board filing activities. Furthermore, there is insufficient evidence to establish that the Employer drafted the schedule or declined to modify the schedule in order to retaliate against you for your protected activities. In these circumstances, we could not conclude that the Employer violated Section 8(a)(1) and (4) of the Act.

Accordingly, the appeal is denied.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: SEAN R. MARSHALL
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
BANK OF AMERICA CENTER,
TOWER II
100 S CHARLES ST STE 600
BALTIMORE, MD 21201

JASON M. BRANCIFORTE, ESQ.
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WASHINGTON, DC 20006-4046

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vrn